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U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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June 16, 2006

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The Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460-0001

Dear Administrator Johnson:

We appreciated the Environmental Protection Agency (EPA) responses transmitted by letter dated April 7, 2006, to the follow-up questions for the "Superfund Laws and Animal Agriculture" hearing before the Subcommittee on Environment and Hazardous Materials. With respect, however, to the following questions, the answers received from EPA were not responsive to the questions submitted.

Question 2: Please provide any other information EPA has relating to the human health or environment risks associated with large-sale Concentrated Animal Feeding Operations (CAFOs).

Answer: To EPA's knowledge, no official quantitative risk assessment or studies have been conducted to estimate the human health risks associated with large-scale CAFOs.

The question was not whether "official quantitative risk assessment or studies" had been conducted, but rather what information did EPA have relating to human health or environment risks associated with large-scale CAFOs. Is your response that there is no other information in the possession of the Agency addressing or relating to the actual or potential human health or environmental risks associated with large-scale CAFOs? If not, please provide any such information.

We wish to call your attention to the preamble of the final rule entitled National Pollutant Discharge Elimination System Permit Regulation and Effluent Limitation Guidelines and

Standards for Concentrated Animal Feeding Operations, 68 Fed. Reg. 7176, 7179 (Feb. 12, 2003). In the preamble EPA stated:

“AFO’s (animal feeding operations) annually produce more than 500 million tons of animal manure that, when improperly managed, can pose substantial risks to the environment and public health.”

Please provide the information in the possession of EPA that supports the statement that animal manure, when improperly managed, can pose substantial risks to the environment and public health. What specifically are these risks?

Further, do you agree that animal waste generated by CAFOs includes a number of potentially harmful pollutants including nutrients such as nitrogen and phosphorus? If so, please describe the risks from phosphorus to water quality and drinking water supplies.

In addition, is the EPA aware of any studies that suggest that airborne effluent from swine confined animal feeding operations may affect the health and quality of life of adults and the prevalence of asthma symptoms among children? If so, please describe them.

Question 20: Does EPA support treating “manure” the same as chemical or other commercial fertilizers for the purpose of CERCLA and, in particular for the purpose of the exclusion from the definition of “release” for “the normal application of fertilizer”?

Answer: EPA has not taken a position on what constitutes the normal application of fertilizer.

This question was not asking what “constitutes the normal application of fertilizer” but whether EPA supports treating “manure” the same as chemical or other commercial fertilizers for the purpose of CERCLA? Please answer that question.

We direct your attention to the opinion of the United States Court of Appeals for the Second Circuit in Waterkeeper Alliance et al v. EPA (No. 03-4470(L), February 28, 2005) that stated:

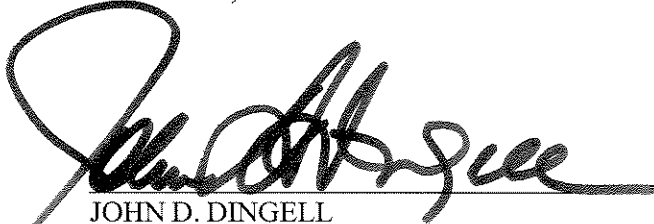

“As all parties here agree, when properly land-applied, manure, litter and other process waste waters can act as a fertilizer, because ‘land application of CAFO waste fosters the reuse of the nitrogen, phosphorus, and potassium in these wastes for crop growth’.”

Was the EPA one of the parties that agreed that “manure” is a fertilizer?

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Please provide a response to the above questions by no later than Monday, July 10, 2006. Should you have any questions concerning this matter please contact one of us, or have your staff contact Richard A. Frandsen, Senior Minority Counsel with the Committee on Energy and Commerce, at 202-225-3641.

Sincerely,


JOHN D. DINGELL
RANKING MEMBER
HILDA L. SOLIS
RANKING MEMBER
SUBCOMMITTEE ON ENVIRONMENT
AND HAZARDOUS MATERIALS

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Paul E. Gillmor, Chairman
Subcommittee on Environment and Hazardous Materials